

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

John W. Butler, Jr.,)	
)	Civil Action No. 8:09-710-MBS-BHH
Plaintiff,)	
)	
v.)	
)	<u>ORDER</u>
Mr. Scotty Bodiford,)	
)	
Defendants.)	
_____)	

The Plaintiff, a prisoner proceeding *pro se*, seeks relief pursuant to Title 42, United States Code, Section 1983. This matter is before the Court on the Plaintiff's Motion to Compel Discovery and Stay a Ruling on the Defendant's Summary Judgement Motion. (Dkt. # 53.) The Defendant opposes this motion. (Dkt. # 54.)

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983.

The dispositive motions in this case were originally due October 14, 2010. (Dkt. # 32.) The Defendant moved for and were granted extensions, making dispositive motions due November 18, 2010. (Dkt. # 44 and 45.) On November 18, 2010, the Defendant timely filed a motion for summary judgment. (Dkt. # 47.) The Plaintiff states he sent the Defendant discovery requests on November 20, 2010. (Pl.'s Mot. at 3.) The Plaintiff argues that his discovery requests were timely because he did not receive the

Defendant's Summary Judgment Motion until November 23, 2010. *Id.* Regardless of when the Plaintiff received the Defendant's Summary Judgment motion, the Defendant timely filed the motion on November 18th, and more importantly, the Plaintiff states he sent his discovery request on November 20th after the dispositive motions deadline of November 18th had passed. *See Rylee v. Bureau of Prisons*, 2009 WL 633000 (D.S.C. 2009)(plaintiff did not file discovery prior to dispositive motions deadline).

Accordingly, based on the foregoing, the Plaintiff's Motion to Compel Discovery and Stay Summary Judgment (Dkt. # 53) is DENIED.

IT IS SO ORDERED.

s/Bruce Howe Hendricks
United States Magistrate Judge

January 19, 2011
Greenville, South Carolina